

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

WALTER HEYERT, an individual, and JANE  
C. HEYERT, an individual,

Plaintiffs,

v.

LEHMAN BROTHERS BANK, FSB, *et al*,

Defendants.

Case No. CV 08 8095 PCT-MHM

**ORDER APPROVING  
SETTLEMENT AND DISMISSING  
CASE WITH PREJUDICE**

(Assigned to the Honorable  
Mary H. Murguia)

THIS MATTER has come before the Court upon the Stipulated Motion to Approve Settlement and Request For Dismissal filed by the parties herein. The Court, having reviewed said Stipulated Motion and being sufficiently advised, hereby FINDS and ORDERS as follows:

1. The Heyerts have raised claims in this action for rescission under the federal Truth in Lending Act ("TILA"), damages relating to such rescission claims, and claims under the Arizona Consumer Fraud Act. Defendants have answered and filed counterclaims.

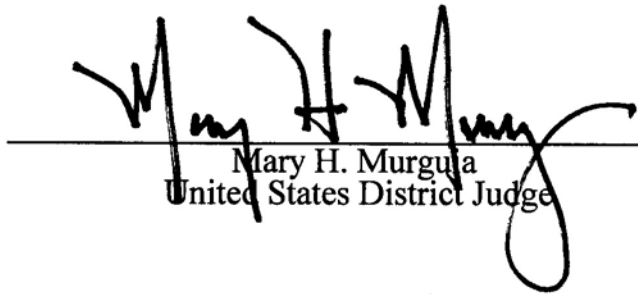
2. The parties have entered into a Settlement Agreement which provides that the plaintiffs have released their claims against the defendants and withdrawn their request to rescind the mortgage loans under TILA, the loans are not rescinded and remain in full force and effect, and the plaintiffs will provide a deed-in-lieu of foreclosure and deliver possession of the mortgaged property to Aurora.

1           3.     The Court hereby APPROVES the settlement as set forth in the Stipulated  
2 Motion and accompanying agreement, and makes the same an order of the Court. Pursuant to  
3 Fed.R.Civ.P. 41(a), this action is DISMISSED, with prejudice, each party to pay its own  
4 attorneys' fees and costs. The Court retains jurisdiction to enforce the settlement agreement.

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6           IT IS FURTHER ORDERED granting the Motion to Vacate Settlement Conference set  
7 January 26, 2009 at 9:00 a.m. before Magistrate Judge Voss [doc. 40].

8           Dated this 8th day of January, 2009.

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Mary H. Murgula  
United States District Judge